FILE COPY

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1928

No. [redacted] 2

SURPLUS TRADING COMPANY ..... *Plaintiff in Error*

v.

J. M. HAYNIE, AS SHERIFF AND EX-OFFICIO COLLECTOR OF TAXES FOR PULASKI COUNTY, ARKANSAS ..... *Defendant in Error*

IN ERROR TO THE SUPREME COURT OF THE STATE OF ARKANSAS

## MOTION TO SUBSTITUTE AS PARTY SUCCESSOR IN OFFICE OF DEFENDANT IN ERROR

HAL L. NORWOOD,
Attorney General of Arkansas;

SAM T. POE,
TOM POE,
For Defendant in Error.

(33,118)

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1928

No. 33

---

SURPLUS TRADING COMPANY ..... *Plaintiff in Error*

v.

J. M. HAYNIE, AS SHERIFF AND EX-OFFICIO COLLECTOR OF TAXES FOR PULASKI COUNTY, ARKANSAS ..... *Defendant in Error*

---

## IN ERROR TO THE SUPREME COURT OF THE STATE OF ARKANSAS

---

## MOTION TO SUBSTITUTE AS PARTY SUCCESSOR IN OFFICE OF DEFENDANT IN ERROR

---

The defendant in error, J. M. Haynie, as Sheriff and ex-Officio Collector of Taxes for Pulaski County, Arkansas, by his counsel of record, moves the Court for an order substituting as a party the successor in office of the defendant in error, and for reasons therefor states:

I.

On April 8, 1929, J. M. Haynie, the defendant in error, tendered his resignation as Sheriff and ex-Officio Collector of Taxes for Pulaski County, Arkansas, to the Governor of the State of Arkansas. The resignation was accepted by the Governor of the State of Arkansas on the same day

it was tendered. R. A. Cook was, on April 8, 1929, appointed as Sheriff and ex-Officio Collector of Taxes for Pulaski County, Arkansas, by the Governor of the State of Arkansas to serve for the unexpired term, succeeding J. M. Haynie, resigned. R. A. Cook accepted the appointment and thereafter qualified as required by the statutes of the State of Arkansas, and is now the duly qualified and acting Sheriff and ex-Officio Collector of Taxes for Pulaski County, Arkansas.

II.

The above entitled action is now pending in this Court, and has not yet been determined. There is a substantial need for the continuing and maintaining of this cause and obtaining an adjudication of the question involved.

III.

The federal statute under which the substitution of R. A. Cook, as Sheriff and ex-Officio Collector of Taxes for Pulaski County, Arkansas, as defendant in error, in this cause is asked, is Section 11 of the Act of February 13, 1925, which provides as follows:

> "Section 11. (a) That where, during the pendency of an action, suit, or other proceedings brought by or against an officer of the United States, or of the District of Columbia, or the Canal Zone, or of a Territory or an insular possession of the United States, or of a county, city or other governmental agency of such Territory or insular possession, and relating to the present or future discharge of his official duties, such officer dies, resigns, or otherwise ceases to hold such office, it shall be competent for the court wherein the action, suit, or proceeding is pending, whether the court be one of first instance or an appellate tribunal, to permit the cause to be continued and maintained by or against the successor in office of such officer, if within six months after his death or separation from the office it be satisfactorily shown to the court that there is a substantial need for so continuing and maintaining the cause and obtaining an adjudication of the questions involved.

"(b) Similar proceedings may be had and taken where an action, suit, or proceedings brought by or against an officer of a State, or of a county, city or other governmental agency of a State, is pending in a court of the United States at the time of the officer's death or separation from the office.
* * * * * *"

Premises considered, the defendant in error, J. M. Haynie, as Sheriff and ex-Officio Collector of Taxes for Pulaski County, Arkansas, prays an order substituting as a party to this cause R. A. Cook, the successor in office of defendant in error.

HAL L. NORWOOD,
Attorney General of Arkansas;

SAM T. POE,
TOM POE,
For Defendant in Error.

STATE OF ARKANSAS,
COUNTY OF PULASKI.

We, Sam T. Poe and Tom Poe, counsel of record for defendant in error in the above entitled cause, do solemnly swear that the facts recited in the foregoing "Motion to Substitute as Party Successor in Office of Defendant in Error" are true.

SAM T. POE,
TOM POE.

Subscribed and sworn to before me this the 22nd day of April, 1929.

GRACE LASSITER,
Notary Public.